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HONORABLE FREDERICK CORBIT

10 UNITED STATES BANKRUPTCY COURT
11 EASTERN DISTRICT OF WASHINGTON

12 In Re:

13 GIGA WATT INC.

14 Debtor in Possession

Case No. 18-03197-11

Chapter 11

DBS LAW'S LIMITED
OBJECTION TO CHAPTER 11
TRUSTEE'S MOTION FOR
ORDER AUTHORIZING
PAYMENT OF PREVIOUSLY
AWARDED BUT UNPAID
COMPENSATION

15 DBS Law, former counsel for the Unsecured Creditors' Committee of Giga
16 Watt, Inc. (the "Committee"), hereby submits this limited objection to the
17 *Chapter 11 Trustee's Motion for Order Authorizing Payment of Previously*
18 *Awarded but Unpaid Compensation* (the "Motion," Dkt. 641). The Court should
19 permit payment of the Trustee's fees only pro rata with the approved fees of other
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1 professionals, in keeping with 11 U.S.C. § 507(a) and with the Court’s previously
2 entered *Order Awarding Compensation for Services Rendered and*
3 *Reimbursement of Expenses Pursuant to 11 U.S.C. § 330 or § 331* (the “DBS Fee
4 Order,” Dkt. 472).

5
6 Per the Motion, the Trustee currently holds \$398,580.06 in the estate. In his
7 concurrently filed fee application, the Trustee estimates that there are \$1 Million
8 in accrued unpaid professional fees in this case. Dkt. 640, at 7. Thus far, the
9 Trustee is the only professional that has received payment from the estate, in the
10 amount of \$57,146.56. Dkt. 422; Motion, at 2. The Trustee also has \$38,097.70 in
11 approved but unpaid fees, for which he now seeks payment. *Id.*

12
13 Pursuant to 11 U.S.C. 507(a)(2), all “administrative expenses allowed
14 under section 503(b)” hold the same degree of priority. This includes the fees of
15 both the Trustee and Committee counsel. 11 U.S.C. § 503(b)(2); 11 U.S.C. §
16 330(a)(1). Pursuant to 11 U.S.C. § 507(a)(1) a trustee’s fees only come before
17 other professionals’ fees if they prime the position of certain domestic support
18 obligations. 11 U.S.C. § 507(a)(1)(C). As there are no domestic support
19 obligations to be paid from the Debtor’s estate in this case, the Trustee’s fees
20 receive the same priority as other 503(b) expenses. *See also, In re Ste-Bri*
21 *Enterprises, Inc.*, 11-53273, 2016 WL 5763796, at *4 (Bankr. N.D. Ohio Sept.
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1 30, 2016), *rev'd on other grounds, United States Tr. v. Ste-Bri Enterprises, Inc.*,
2 579 B.R. 448 (N.D. Ohio 2017) (“the apparent elevation of certain administrative
3 expense claims to the highest priority, even above domestic support obligations,
4 pursuant to Section 507(a)(1)(C), is limited to those cases in which domestic
5 support obligations exist”).
6

7
8 Further, on January 30, 2020, the Court approved the First and Final Fee
9 Application of DBS Law. Through the DBS Fee Order, the Court specified that
10 “the allowed claim of DBS Law ... shall only be paid upon further order of the
11 Court, which order will provide for payment pro rata with other administrative
12 claims pursuant to section 503(b)(2) of the Bankruptcy Code.” Dkt. 472
13 (emphasis added). The Court has already contemplated that professional fees need
14 to be paid pro rata in accordance with the Code.
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16
17 DBS Law does not object to the Trustee’s new fee application filed at Dkt.
18 640. However, the Trustee should not receive payment for approved fees except
19 in accordance with statutory priorities. DBS Law has been in communication with
20 the Trustee regarding the Motion and this objection, and has discussed with the
21 Trustee tother alternatives to the relief sought in the Motion that will hopefully be
22 presented to the Court on or before the hearing on this Motion.
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1 DATED this 30th day of July, 2020.

2 DBS | Law

3 */s/ Dominique Scalia*
4 Daniel J. Bugbee, WSBA #42412
5 Dominique R. Scalia, WSBA #47313
6 *Former Attorneys for Official Unsecured*
7 *Creditors Committee*
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